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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,300	11/30/2005	Christophe Naulet	274267US6PCT	5268
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER DONDERO, WILLIAM E				
ART UNIT 3654		PAPER NUMBER		
NOTIFICATION DATE 11/13/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/542,300

**Applicant(s)**

NAULET ET AL.

**Examiner**

WILLIAM E. DONDERO

**Art Unit**

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 August 2008 and 17 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-14, 17-19 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14, 17-19 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 17, 2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiminski et al. (US-4431138) in view of Green (US-3041663) and Schippers et al. (US-5016829). Regarding Claim 12, Schiminski et al. disclose a winding machine comprising a frame including a barrel 18 positioned on the frame, at least two spindles 9.1, 9.2 fastened to the barrel, each of the spindles being configured to support at least one cake 8 and to be movable in rotation about a first axis substantially perpendicular to a diameter of the cake, at least one positioning and guidance device 1 configured to position and guide at least one thread 6 on the spindles, and a thread retraction device 11 configured to displace the at least one

thread by grasping the thread and moving between a first position, in which the at least one thread is retracted from the positioning and guidance device, and a second position, in which the at least one thread is engaged with the positioning and guidance device, wherein the barrel is mounted movably in rotation with respect to the frame along a third axis of rotation substantially parallel to the first axis (Figures 1-12).

Schminski et al. is silent about a linear actuator configured to continuously drive the spindles in forward and reverse directions along the first axis during winding of at least one thread, and the thread retraction device being positioned above the at least one positioning and guidance device and moving from the first position to the second position by rotation. However, Green discloses a linear actuator 46 configured to continuously drive a spindle linearly in forward and reverse directions along a first axis during winding of at least one thread 16 (Figures 1-2; Column 3, Lines 63-74). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the linear actuator of Green to spindles of Schminski et al. to build up the package as taught by Green (Column 3, Lines 63-74). Further, Schippers et al. disclose a winding machine comprising a thread retraction device 25 positioned above at least one positioning and guidance device 4 and configured to displace at least one thread 3 by grasping the thread and rotating between a first position (Figure 1B), in which the at least one thread is retracted from the positioning and guidance device, and a second position (Figure 1A), in which the at least one thread is engaged with the positioning and guidance device (Figures 1-8). Because both Schminski et al. and Schippers et al. teach thread retraction devices, it would have been further obvious to substitute the

pivoting thread retraction of Schippers et al. for the sliding retraction device of Schminski et al. to achieve the predictable result of allowing the thread to be disengaged from the positioning and guidance device. Regarding Claim 19, Schminski et al. disclose a straight ejector 11 configured to position the thread at the end of the spindle (Figures 1-12).

Regarding Claim 23, Schminski et al. disclose a method for winding cakes comprising positioning a first spindle 9.1 and a second spindle 9.2 on a barrel 18 located within a frame; rotating the barrel so that the first spindle is in a thread receiving position; grasping a thread 6 with a thread retraction device 11 and moving the thread between a first position, in which the thread is retracted from a positioning and guidance device 1, and a second position, in which the thread is engaged with the positioning and guidance device; rotating the first spindle having the thread around a first axis; guiding and positioning the thread onto the spindle with the positioning and guidance device; and after building up the thread on the first spindle, rotating the barrel so that the second spindle is in the thread receiving position (Figures 1-12). Schminski et al. are silent about the thread retraction device positioned above the positioning and guidance device; rotating the thread retraction device between the first and second positions; and driving continuously the first spindle linearly in a forward and reverse direction along the first axis while the first spindle is in the thread receiving position. However, Green discloses driving continuously a spindle 18 linearly in a forward and reverse directions along the first axis (via linear actuator 46) while the spindle is in a thread receiving position (Figures 1-2; Column 3, Lines 63-74). It would have been obvious to one of

ordinary skill in the art at the time of the invention to add the linear actuator of Green to continuously drive spindles of Schminski et al. linearly in a forward and reverse direction to build up the package as taught by Green (Column 3, Lines 63-74). Further, Schippers et al. disclose a method for winding cakes, comprising grasping a thread 3 with a thread retraction device 25 positioned above a positioning and guidance device 4 and rotating the thread retraction device grasping the thread between a first position (Figure 1B), in which the thread is retracted from the positioning and guidance device, and a second position (Figure 1A), in which the thread is engaged with the positioning and guidance device (Figures 1-8). Because both Schminski et al. and Schippers et al. teach thread retraction devices, it would have been further obvious to substitute the pivoting thread retraction of Schippers et al. for the sliding retraction device of Schminski et al. to achieve the predictable result of allowing the thread to be disengaged from the positioning and guidance device.

Claims 13, 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schminski et al. (US-4431138) in view of Green (US-3041663) and Schippers et al. (US-5016829) as applied to claims 12, 19 and 23 above, and further in view of Westrich (US-6105896). Schminski et al. in view of Green and Schippers et al. is silent about a index device configured to control a position of the barrel with respect to the frame by continuously modifying an angular position of the barrel as a function of a variation in the outside diameter of the cake, to keep a path of the thread constant between its exit point from the positioning and guidance device and its contact point on a periphery of the cake. However, Westrich discloses a winding machine comprising a

index device configured to control a position of the barrel with respect to the frame by continuously modifying an angular position of the barrel as a function of a variation in the outside diameter of the cake, to keep a path of the thread constant between its exit point from the positioning and guidance device and its contact point on a periphery of the cake (Column 10, Line 60 – Column 11, Line 17). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the index device of Westrich in the machine of Schminski et al. in view of Green and Schippers et al. to control the shape, size, and quality of the package as taught by Westrich.

Claims 14, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schminski et al. (US-4431138) in view of Green (US-3041663) and Schippers et al. (US-5016829) as applied to claims 12, 19 and 23 above, and further in view of Sakurauchi (JP-06329437). Regarding Claim 14, Schminski et al. in view of Green and Schippers et al. is silent about the positioning and guiding device including at least one helix mounted movably in rotation about a second axis, substantially parallel to the first axis. However, Sakurauchi discloses a winding machine with a positioning and guidance device including at least one helix 13 mounted movably in rotation about a second axis, substantially parallel to a first axis (Figures 1-9). Because both Schminski et al. in view of Green and Schippers et al. and Sakurauchi disclose positioning and guidance devices, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the positioning and guidance device of Sakurauchi for the positioning and guidance device of Schminski et al. in view of Green to achieve the predictable result of guiding the thread onto the bobbin.

Regarding Claim 18, Schiminiski et al. in view of Green and Schippers et al. are silent about a device for driving the thread or a thread drawer including at least two motor driven rollers, the device for driving being fastened to the frame of the winding machine. However, Sakurauchi discloses a winding machine including a device 22 for driving the thread or a thread drawer including at least two motor driven rollers, the device for driving being fastened to the frame of the winding machine (Figures 1-9). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the thread drawer device of Sakurauchi to the machine of Schiminiski et al. in view of Green and Schippers et al. to assist with threading up thread as taught by Sakurauchi.

Regarding Claim 22, Schiminiski et al. in view of Green and Schippers et al. is silent about a control and command device configured to ensure a regulation of speed and/or of position between a primary stroke movement of the positioning and guidance device and a secondary stroke movement of at least one of the spindles. However, Sakurauchi discloses a winding machine with a control and command device 39 configured to ensure a regulation of speed and/or of position between a primary stroke movement of the positioning and guidance device and a secondary stroke movement of at least one of the spindles (Translation Page 8-9, Paragraph [0020]). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the command and control device of Sakurauchi to the machine of Schiminiski et al. in view of Green and Schippers et al. to have precise control of the winding parameters producing the desired package.



***Response to Arguments***

With respect to Applicant's arguments starting on page 6, line 21 to page 9, line 19, Applicant argues Schminski et al., Green, Westrick, and Sakurachi alone or in combination do not disclose or suggest the thread retraction device, because it is not positioned above the positioning and guidance device, it slides rather than rotates, and it does not grasp the thread. Applicant's arguments with respect to claims 12-14, 17-18, and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM E. DONDERO whose telephone number is (571)272-5590. The examiner can normally be reached on Monday through Friday 6:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3654

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. E. D./

Examiner, Art Unit 3654

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3654